

3-15-1966

## Voir Dire Vol.5, No.4

Associated Students of Hastings College of the Law

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"To deprive a man of his opinion is to rob posterity and the existing generation. If it be right, then they are deprived of exchanging error for truth. If it be wrong, they are deprived of illuminating the impression of truth as it collides with error."

—JUSTICE BRANDEIS

# Voir Dire

Hastings College of the Law



Tues., March 15, 1966

San Francisco, California

Volume 5, No. 4

## Law Forum Slates Witkin Student Council And Dr. Kelsen To Speak Revises Const.

The Hastings Law Forum will carry on its active program of colorful speakers this semester by presenting Mr. Bernard L. Witkin, March 17, and Dr. Hans Kelsen, April 1. Mr. Witkin will offer his views on the new California Evidence Code. His topic: "Happiness is a New Evidence Code." Dr. Kelsen will speak on the "Efficacy and Validity of the Law."

### Bernard Witkin

B. E. Witkin was born in Holyoke, Massachusetts, in 1904. He received his formal education in San Francisco grammar and high schools, obtaining his A.B. in 1925 from the University of California, and his LL.B. in 1928. He was admitted to the State Bar of California in 1927, and is presently an active member of the Bar Association of San Francisco.

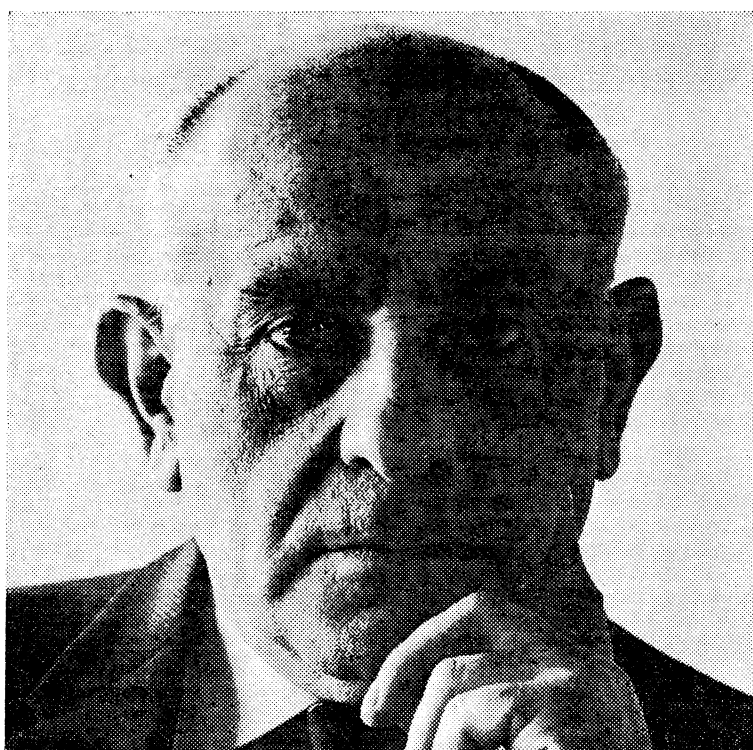
Mr. Witkin practiced privately for eight years after his graduation from law school. The following nine years were spent as the legal secretary for Supreme Court Justice William H. Langdon. From 1939 to 1941 he served as the law secretary for Supreme Court Justice (later Chief Justice) Phil S. Gibson. In 1942 Mr. Witkin became the reporter of decisions for the California Supreme Court and the District Court of Appeals, a post he held seven years. During those years he also was made a draftsman for the Judicial Council Rules on Appeals. He later served as a consultant to the Judicial Council on procedural matters, particularly the Law of Appealability and Extra-Ordinary Writs.

Mr. Witkin is no stranger to legal education. For a number of years he conducted the only review course for the California Bar Examination in San Francisco. He also conducted refresher courses for veteran lawyers following World War II, under the auspices of the California State Bar.

B. E. Witkin his distinguished himself as a legal scholar and writer. He is the author of *Summary of California Law, California Procedure, California Evidence, and California Crimes and Criminal Procedure*, which have become invaluable as basic handbooks for California attorneys. He is also a prominent lecturer, having spoken at most of the Bar Associations and law schools throughout this state.

### Dr. Hans Kelsen

The appearance of Dr. Hans Kelsen at Hastings will add a spice of international flavor to this year's program. Born in



BERNARD WITKIN

Prague in 1881, Dr. Kelsen survived and escaped from two revolutions and a ruthless tyranny in central Europe. He has held honored and influential academic positions in five nations and on two continents. He has built and re-built a systematic philosophy of law and the state, which has won him a position among the most distinguished legal-political philosophers of the 20th century.

Dr. Kelsen attended the University of Vienna and received his doctorate in law there at the age of twenty-five. He later studied at the universities of Heidelberg and Berlin, and in 1911 became professor of public law and jurisprudence at the University

of Vienna. He served at this post for 19 years, during which time he began his writings on the philosophy of law and the state. He was a legal advisor to the Austrian government after World I, where he presented several drafts of a constitution for the newly established Austrian Republic. One of these drafts was adopted at the Austrian Constitution in 1920.

From 1921 to 1930, Dr. Kelsen served on the Supreme Constitutional Court of Austria. He was dean of the Faculty of Law at Vienna in 1922-23. In 1930, he went to the University of Cologne as dean of the Faculty and professor of international law

—Continued on Page 4

## Spring 'Barrister Ball' Set For Saturday, March 19

San Francisco's famed Sheraton Palace hotel will be the scene of the annual "Barrister Ball" on Sat., March 19. The "affair" offers a rare and inexpensive opportunity (\$3.00 per couple) to take advantage of the facilities of this famous San Francisco landmark and at the same time partake in an evening of entertainment, prizes, and fun.

The entertainment will be provided by the Walt Tolson Band, a door prize consisting of a round trip ticket to Southern California will be presented by PSA Airlines, and the students themselves, united in a concerted ef-

fort of imbibing will contribute to the atmosphere of regal revelry.

The Wives Club and Associated Students are united in an effort to make this an outstanding social event, as it has been in the past. It is the years last chance for Hastings students to get together under social conditions, and with Finals approaching the spirit of "whoopie" will prevail.

To top it off the proceeds from the "Dance" will go to the purchase of a Color Television for the student lounge. Don't miss the fun, purchase your ticket from a student Rep. and have a "Ball" at this outstanding event. Remember: Sheraton Palace Gold Room, March 19. See you there!

### By BRUCE SILVERMAN, II-B REP.

This year, the Student Council decided that the present Constitution drawn in 1950 was inadequate to meet the needs of the present and future student body. The Constitutional Revision Committee was formed to present a draft for approval by the Student Council. Such a draft has been prepared, and has been approved unanimously by the Council. It will be presented for student approval on Friday, March 18, 1966, in an election to be held outside of the classrooms in the foyer of the school.

### Broad Purpose

The ideal behind the new Constitution to provide the machinery to make a more effective student government. It is through the effective use of this machinery that the Associated Students can gain the respect and support necessary to provide for the needs of its members. The Constitution, directed towards these ends, delineates the powers of the Council more specifically than before, creates administrative boards to carry out the activities of the Association, and, along with the new Election Code, provides for fair and meaningful elections.

### ASH

The name of the Association will be changed to "ASSOCIATED STUDENTS OF HASTINGS" to be better known as ASH. The name of the legislative body of the Association will be called the "Governing Council" instead of the present "Student Council," and will increase in size in that there will be two representatives from each of the second & third year classes instead of one. The Editor-in-Chief of the *Voir Dire* and the Building Superintendent will sit as ex-officio members of the Council.

### Elections

The qualifications for office have been changed in order to broaden student participation in their government. The grade point requirement for President of the Association has been lowered from 75 to 72 per cent, with the idea that, in general, today's student at Hastings is of a higher calibre academically than his predecessor, and the student wishing to work for the Association should not thereby be penalized. The general examination requirements for first year students has been abrogated as a qualification, as the administration places no significance on them other than practical experience.

There will be two general elections each year. The first is to be held three weeks after the beginning of the Fall semester, to elect the sectional representatives to the Governing Council—last year's representatives will serve until this election. The second election will be held the last Wednesday in April for the purpose of electing the executive officers of ASH. There is also a provision for referendum upon

petition, signed by 15 per cent of the members of the Association.

### Powers of the Council

Under the Constitution Article V, "All legislative authority of the Association shall be vested in the Council" to govern all elections, aid in the publication of the *Voir Dire*, maintain an athletic program, provide social activity, encourage academic intercourse between student and faculty, initiate programs to improve health, loan, and placement services, and approve all expenditures of the Association.

### Creation of the Boards

The most striking improvement in the new Constitution is the creation of administrative boards to carry out the activities of the Council. Under the old Constitution the Association had no organized machinery to carry out its ideas and plans. There will be at least one member of the Governing Council on each Board to act as a liaison between the Board and the Council. Each Board will have at least five members with a chairman to be selected by the President of ASH and to be approved by the Council. For each power of the Council, there is a corresponding Board as follows: Finance, Elections Publications, Athletics, Activities, Academic Affairs, Student Services, and Public Relations. All motions introduced at Council meetings will automatically be referred to the proper Board for consideration with the idea that the Board will research the motion and report to the Council on its feasibility. The motion may be reported back in one week if desired by the Council.

### Future

The Constitution was designed for the needs of tomorrow's student as well as today's. A vote for ASH on Friday, March 18, 1966, is a vote for an effective student government now and for future law student generations.

Bruce Silverman IIB

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DR. KELSEN

# S. C. Hastings, Epitome of Ambition

By DEAN ORRIN KIP McMURRAY, '93

Edited by Chris A. Schaefer

A great pioneer and builder of commonwealth, a son of an heroic era in American history, a massive figure, Serranus Clinton Hastings merits a larger need of remembrance than has been his share. His early life was cast among men like himself, full of power and energy, of aspiration and ambition, yet in the company of such men he bore a place among the foremost. First member of Congress from Iowa, first Chief Justice of that Commonwealth, first Chief Justice of California, founder of the first law school on the Pacific Coast, his achievements win for him a secure niche in the history of the West.

He was born in Jefferson County, New York, on November 22, 1814. In 1824, on the death of his father, the family moved to St. Lawrence County, New York. The boy was educated at Gouverneur Academy; at 20 he became principal and teacher in Norwich Academy, Chenango County, New York.

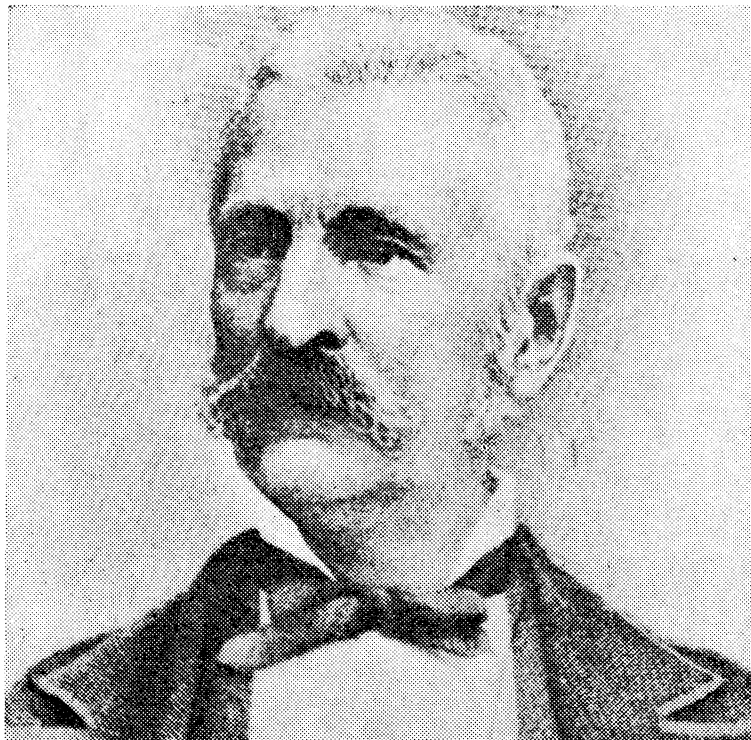
In the following year, 1835, at the age of 21, the young man moved westward into Indiana. He first settled in Lawrenceburg and later moved to Terre Haute where, in December, 1836, he was admitted to practice law by the Circuit Court. For a while he was editor of the "Indiana Signal" and supported Martin Van Buren in the campaign of 1836.

In January, 1837, Hastings was again on the westward march. This journey carried him to a new frontier. He settled in what is now Iowa. The young pioneer settled in Burlington in the Black Hawk territory, but remained there only a short time. Soon we find him in Bloomington, a little settlement in the same territory, later to become the city of Muscatine. Here he lived until his departure for California in 1849. Hastings was appointed a Justice of the Peace by the Governor of Wisconsin Territory and again was admitted to practice law.

In 1838, when the Territory of Iowa was created, the young law-

yer at once became prominent in the affairs of the new territory. He was a member of the first territorial legislature and remained such until Iowa attained Statehood eight years later. For one session he was president of the upper house of the legislature. He frequently appeared as counsel in the reports of cases in the territorial court. In 1845 he was married to Miss Azalea Brodt, Hastings' only military title, that of Major, was acquired during this period. He commanded the "Muscatine Dragoons" in a war that developed between Iowa and Missouri over the boundary between the states. The Iowans took the field against the Missourians. Their martial exploits, however, were limited to the capture of a Missouri sheriff, and the dispute was soon settled by the governors of the respective states involved.

In 1846, when Iowa became a state, Hastings was elected to represent it in Congress. The youngest member save for one in the Congress of 1846, he sat for one term in a House of Representatives including such men as John Quincy Adams, Abraham Lincoln, Stephen A. Douglas, and Andrew Johnson. When the Supreme Court of the new State of Iowa was organized, in 1848, Hastings was appointed by the Governor as Chief Justice. During the year, gold was discovered



SERRANUS CLINTON HASTINGS  
Founder of Hastings College of the Law

in California, and again the voice of adventure called to the spirit of the successful lawyer, politician, and jurist. In the spring of 1849, immediately after the end of his term of office, the Chief Justice of thirty-four, temporarily leaving his family in Iowa, is embarked on the hazardous overland journey by prairie schooner and pack train to California.

We catch a glimpse of the man from a letter addressed to his brother, written from Sacramento under date of September 21, 1849. He is getting into practice, he says, and has established a banking or deposit office, in which he has already received \$20,000 though this enterprise was established only three days before. He has just lent \$1,000 for a month at ten per cent—the prevailing rate of interest in the California of 1849, and no exorbitant rate considering the insecurity of the community. He has been successful in securing from Monterey some soldiers and officers with about seventy mules to go to the relief of emigrants who were in distress on the trails, and informs his brother that "we have sent them relief." Already, though but three or four months in California, Hastings has assumed the burdens of leadership in the new community.

At the same time that he is writing to his brother, we find the former Chief Justice of Iowa commissioned by Governor Riley as prosecuting officer in the Court of First Instance. A month

or two later a new clerk is appointed for the same court, Stephen J. Field, partner of the famous David Dudley Field and soon to be engaged in fierce struggle with Judge Terry, to be disbarred and threatened with death by his foe.

California was not yet a state, but a legislature was convened in December, 1849, and selected Serranus Clinton Hastings as first Chief Justice of the Supreme Court of the State. In March, 1850, the court was organized and heard its first calendar. Decisions involving life, liberty, and property were made and enforced by the Supreme Court of the "State of California" though statehood was not formally conferred by Congress until September 9, 1850.

In 1850, his family came to California and he established a residence in Benicia, about to become the capital of the new state. His business continued and grew. The firm of Henley and Hastings carried on a banking business in Sacramento. In 1851, Hastings was a successful candidate for the office of Attorney-General, which he assumed on the termination of his term as Chief Justice, and the duties of which he discharged until 1853. With that year ended his long public service in two pioneer communities as Justice of the Peace, legislator, militia officer, Chief Justice of the Supreme Court of Iowa, prosecuting attorney, Chief Justice of the Supreme

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## ASH Reports

By PETER L. TRIPODES  
Student Body Secretary

A wholly new and revised Constitution of the Hastings Student Body has been approved by the Student Council and will be submitted to the students for final decision on March 18. The Draft, which was prepared by the Constitutional Revision Committee composed of Representatives Silverman and Huntington (both of II-B) was thoroughly reviewed by the Council during the past month. The approval was given at its March 4th meeting.

### ASH

According to its provisions, the organized student body as a whole would be known as the Associated Students of Hastings (ASH). Its membership would be only students in good standing—those who have paid their membership fees. The Student Council will be known as the "Governing Council" whose membership would be significantly enlarged.

### BOARDS

It would also create several new Boards, responsible to the Governing Council, with legislative and administrative powers. They would be responsible for initiating programs and carrying out the powers of the Council.

### ELECTIONS

The proposed Constitution would also make changes in the qualifications for President, Vice President, and Treasurer. It provides for two general elections which would be held, according to the newly enacted Elections Code prepared by Representative Silverman and recently approved by the Council, in April (for election of President, Vice President, Secretary, and Treasurer) and in October (for the Class Representatives).

Representative Silverman of the Bookselling Practices Committee reported to the Council that West has stated, in a letter recently received from the Company, that it will not change its present distribution of franchises, meaning that Lake's Bookstore will still hold the only franchise. However, as pointed out by President Fygi, there is a possibility that in the proposed new wing to the Law School, which will be completed in the Fall of 1967, there will be a provision for a Student Bookstore, owned and operated by the students and supplied by West. Dean Sammis has suggested the possibility. Its realization depends on whether the Student Council presents to the Administration a workable program.

### J. D. DEGREE

Steve Burnett, chairman of the J. D. Degree Committee, announced that letters are being written by the Student Council to its student counterparts at Boalt and UCLA to test student enthusiasm for the J. D. Degree at those campuses. He said that the future acceptance of the J. D. Degree at Hastings will depend for the most part on results of those inquiries.

In other results of Student Council Action: The Sutor Room will be open until 10:30 p.m. and will be provided with newspapers; Representative Silverman reported that through the indispensable help and cooperation he received from Mr. James Andersen, building manager, both reading rooms in the library will be open on Sundays from 9 a.m. and on Saturdays until 10 p.m.

### DANCE

The Hastings annual Spring Dance, sponsored by the Associated Students and the Hastings Wives, will be held on March 19

—Continued on Page 3

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### A-H ENTERPRISES

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# Texas To China —To Hastings

Professor Blume rode many a horse to and from school in the "wilds" of Texas before journeying to the "aged Civilization" of China. In the Orient he had a somewhat brief, but colorful stay before settling down in the United States to further pursue his praiseworthy law career.

At an early age, 27, professor Blume left his law practice in Texas and went to Shanghai in 1920 to teach at the Comparative Law School of China. He helped the school develop its unique "triple" study program. This consisted of the classes not only being taught their own Chinese law, but also the comparative Roman (European) and English law. Professor Blume says the idea behind this "triple" study technique was to re-organize ancient Chinese law with a modern international frame of reference. He worked hard teaching and co-ordinating and was rewarded by being made dean of the school in 1921. While Dean, he led the school to prominence in China. Having achieved the desired success, he gracefully left the school and returned to his private practice in Texas in 1924. But, by 1926 the school was faltering and sent an urgent request for professor Blume to aid the school in Shanghai. He went immediately, but his visit was cut short by a Chinese revolution which chased he, his wife, and their two year old daughter back to the United States.

Professor Blume happily relates that the revolution did not bother himself, his family, nor the school. Later, however, during World War II the Japanese did destroy the school. It was rebuilt and continued after that skirmish. The next altercation between the school and the government occurred when the Communists took over China. That ended the school at its original site of Shanghai. Today, however, professor Blume's hard work in the school has been restored since it is flourishing in its new location at Formosa.

Professor Blume reminisces joyously over his stay in Shanghai. There was no single experience that towered in enjoyment above the others; he just recalls all his experiences as one long interesting exploration. For instance, he practiced law in the International Mixed Court which had representatives from Britain, France, etc. Also, he went to the Philippines for the Far-East Bar Association. Professor Blume admits that since he had never traveled in the Orient, these years were extremely enlightening and adventurous.

Though he enjoyed his early years in the Far East, Professor Blume feels that his greatest achievement came from the hard work pursued after his return. He journeyed back to the University of Michigan, where he became an associate professor in 1928. In 1932 he advanced to professor of law and of legal research which he pursued until 1963 when he came to Hastings.

His achievements while at Michigan include the editorship of many volumes of legal material. One of which is the *Transactions of the Supreme Court of the Territory of Michigan—1805-1836* (6 vols.). Another one is *Cases and Statutes on Pleading and Joinder*. Still another successful work is his *Cases and Statutes on Jurisdiction and Judgments*. The latter two of these have been extremely successful, being used currently by many law schools across the nation. All his hard work has made him a recognized authority on American Civil Procedure.

We at Hastings College of the Law wish at this time to thank Professor Blume for coming to

our campus. His distinguished presence on our faculty acknowledges the fact that we have the greatest faculty of any school. Mr. Blume, our appreciation.

## Hastings' Ambition

Continued from Page 2—

Court of California, Attorney-General. At the age of thirty-nine, he begins to devote himself unreservedly to his own affairs, the practice of his profession and the management of his business interests. His career of success was practically unbroken, despite the failure of the banking firm. He became one of the wealthiest men in the state.

In his earlier years in Iowa he had worked for the betterment of schools and of libraries, for codification of the laws of the Territory by the judges. The social purpose was ever in his mind and deeds. The foundation of Hastings College of the Law in 1878 was a worthy monument to the man whose life was devoted the sound building of civil society. His gift of \$100,000 to the state, for the purposes of the college founded under the act of March 28, 1878, has borne interest in human results of incalculable importance to the State and Nation. Serranus Clinton Hastings was appointed the first dean of the college and his son, C. F. D. Hastings, registrar. He never took part in the work of teaching, though doubtless he had great influence in the shaping of the work of the school and the selection of professors. Within a few years after its foundation, differences of opinion on questions of policy arose between the founder and the board of directors of the college, as a consequence of which, in 1883 and 1885, statutes were passed turning over control of the college to the board of regents. However, in a quo warranto proceeding to oust the registrar appointed by the directors, brought on the relation of Judge Hastings, the Supreme Court declared that the new legislation violated the Constitution, and the college retained its organization and government.

Judge Hastings' death on February 18, 1893, at the age of seventy-eight years, occurred at a time when he had already become almost legendary figure. He was a leader belonging to a past generation. He had become a symbol of a rapidly vanishing race of giants, the pioneers of the golden days of 1849.

## Council Report

Continued from Page 2—  
at the Sheraton Palace Hotel. Tickets are \$3.00 a couple.

In recent action at Council meetings: A motion by Representative Radway, I-C, that the Council favor offering a course in Criminal Practice and Procedure was defeated. A motion by Representative Huntington to request the Maintenance Department to look into the occasional lack of ventilation in the library and to post a sign in the library foyer indicating the undesirability of talking in that area was passed. Another resolution prepared by Huntington that three feet of board space in each classroom be allocated for organization purposes was approved and is now awaiting administrative action.

# HASTINGS WINS 'CEC'

Alpine Meadows, Sunday, March 13, was the site of the second annual ski competition between Hastings, Boalt Hall and Stanford law schools for the Caveat Emptor Cup. Hastings emerged victorious after a strong team effort and some outstanding individual performances over a very difficult course. Scoring was based on the combined times of the five fastest finishers from each school.

The course required an uphill climb to drink a can of beer before descending the half mile giant slalom which contained unusual as well as conventional gates. Among the unusual gates were a maze, a bench to climb over and numerous low bridges.

Leading the team to victory was **Roger Hackley**, former captain of the Dartmouth Ski Team, who finished the course in 2:00.1. Second was Hastings' captain **Ted Stiles**, a class A racer from the Pacific Northwest, in a time of 2:09.2. **Boalt Hall's Steve Walthers** finished third in 2:16.8, less than four seconds ahead of another Hastings competitor **Jim Kassis**. Kassis's time of 2:20.2 was attributable largely to his beer drinking ability. Whereas it took most competitors between thirty and forty-five seconds to consume the beer Kassis only took five. Hastings' fourth and fifth fastest finishers were **Ron and Merritt Sher** who finished eighth and tenth respectively. The crowd conjectured that Ron Sher's time of 2:57.3 would have been considerably better had he not lost his beer half way through the sixth gate. Brother Merritt failed to crack the magical 3:17.00 barrier finishing with a brilliant 3:17.2.

Last year's outstanding performers had their difficulties as Boalt's **Tom Zuckerman**, last year's victor, finished a disappointing (to them) fifth. Hastings leading finisher last year **Steve Swig** ran into even greater difficulty when he lost a ski but managed to finish gamely in 4:14.6.



## 1966 CAVEAT EMPTOR CUP OFFICIAL RESULTS

1. R. Hackley, Hastings	2:00.00
2. Ted Stiles, Hastings	2:09.02
3. Steve Walthers, Boalt	2:16.08
4. Jim Kassis, Hastings	2:20.02
5. Tom Zuckerman, Boalt	2:33.02
6. Einar Sunde, Boalt	2:37.05
7. B. Manning, Stanford	2:37.06
8. Nyle Barnes, Boalt	2:57.00
9. Ron Sher, Hastings	2:57.03
10. John Wells, Boalt	3:02.07
11. Merritt Sher, Hastings	3:17.02
12. Steve Swig, Hastings	4:14.00
13. Lord Eldon, Stanford	6:05.03
14. Mrs. Palsgraf, Stanford	6:05.04
15. Pat Chapman, Boalt	8:18.00
16. Rbt. Shelton, Stanford	13:31.00
17. Wm. Prosser, Stanford	DNF

## TEAM SCORES

1. Hastings	12:43.09
2. Boalt	13:27.02
3. Stanford	28:19.03

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The final standings were Hastings 1st in 12:43.09, Boalt second 13:27.02, and Stanford third in 28:19.03. Presentation of the trophy was made on the sun deck at Alpine Meadows after the race and there was another presentation made on Monday morning in classroom A.

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liberating the case.

# NEWS BRIEFS

**LONDON**—The Inland Revenue Service is arguing before a high court judge that anyone who squeezes an orange to make juice is a manufacturer under the law and is liable to a 15 percent tax if he produces for sale goods worth at least 500 Pds. a year. The revenue service is suing to squeeze taxes out of three luxury hotels who supply fresh orange juice to their patrons.

**FRANKFURT, West Germany**—The Federal Crime Bureau in West Germany has reported that over the last decade crime has grown three times as fast as population. The biggest increases have been in theft, burglarly and sex crimes.

**MOSCOW**—The Soviet Government has banned the catching and killing of dolphins because their brains are, "strikingly close to our own." The Soviets hope that other nations will follow their example.

**WASHINGTON**—Eighteen House Republicans are proposing new civil rights legislation to bolster enforcement of the four major laws enacted since 1957. Among other things the proposals are: To set up nondiscriminatory methods of selecting juries; make it easier to prosecute public officials involved in violence against civil rights advocates; subject state or local governments to damage suits in areas where officials violate an individuals civil rights and give the Justice Department authority to initiate civil rights suits on its own.

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## Witkin-Kelsen

Continued from Page 1—  
and jurisprudence. Upon Hitler's rise to power, he moved to Geneva, where he joined the faculty of the Graduate Institute of International Studies.

Dr. Kelsen moved to Harvard in 1941, and became a citizen of the U.S. four years later. In the same year, he published the first volume of the **20th Century Legal Philosophy Series**, sponsored by the **Association of American Law Schools**. 1945 also witnessed his acceptance of an appointment as professor of political science at the **University of California at Berkeley**. He also holds honorary degrees from the **University of Utrecht, Harvard, Chicago, California, Mexico, Salamanca, Freie in Berlin, Wien, and Paris**. He holds memberships in numerous international academies for the arts and sciences.

The principal themes of Kelsen's writings have been his theories of law and the state, and his conception of international law. He has also written on legal sociology, on Plato's changing conception of justice, and on *The Soul and the Law*. His pure theory of law has been the subject of numerous scholarly and critical articles in many different countries. Probably no legal-political philosopher of the present century has attained more world-wide fame than Dr. Hans Kelsen.

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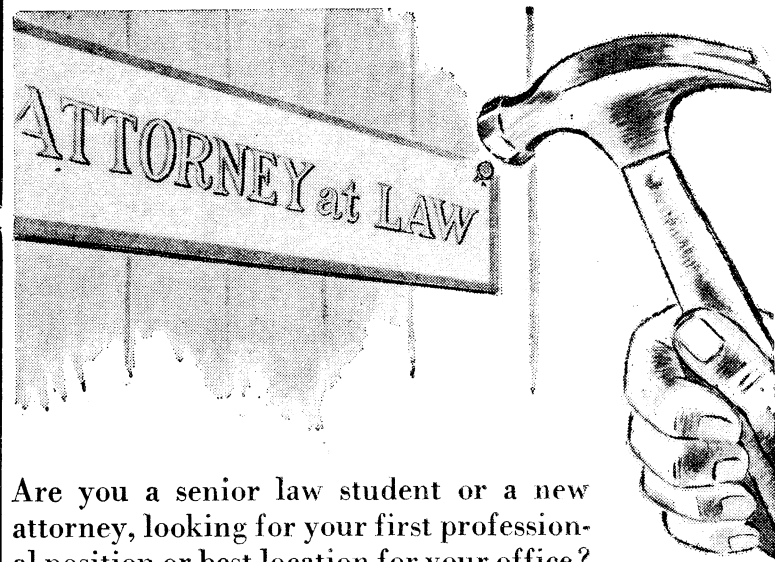
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